IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

WP(C).No. 16566 of 2003(V)

PETITIONER:

SANTHOSH BABU, AGED 40 YEARS,
S/O. PADMAKARA PANICKER, SHYAM NIVAS,
PUNNARAMTHOTTAM, MAVELIKARA.

BY ADV. SRI.GEORGE VARGHESE(PERUMPALLIKUTTIYIL)

RESPONDENTS:

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1. SAJEEVAN, KOCHUMMANNEL HOUSE,
ADINATTU MURI, KARUNAGAPPALLY TALUK.

2. SUMA, KOCHUMANNEL HOUSE,
ADINATTU MURI, KARUNAGAPPALLY.

BY ADV. SRI.N.UNNIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON I.A. NO.1466 OF 2003 IN W.P.(C) NO.16566 OF 2003

DISMISSED.

SD/-
3.8.07. PIUS C.KURIAKOSE, JUDGE

PETITIONER'S EXHIBITS:

EXT. P1: COPY OF THE WRITTEN STATEMENT FILED BY THE PETITIONER HEREIN AS THE DEFENDANT IN O.S.217 OF 2002 OF THE SUB COURT, MAVELIKARA, ALONG WITH ITS DOCKET.

RESPONDENT'S EXHIBITS:

EXT. R2(A): COPY OF OBJECTION IN O.S. NO.217/2002 DATED 25.02.2003 BEFORE THE HON'BLE SUB COURT AT MAVELIKKARA.

/TRUE COPY/

P.A. TO JUDGE

JP

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 16566 of 2003

Dated this the 3rd day of August , 2007

JUDGMENT

The first respondent is not served. But I notice that the first respondent has already entered appearance through Advocate. Heard both sides.

2. The grievance of the petitioner who was the defendant in a suit for money is that written statement filed by him was not received on file on the reason that the same was filed beyond the statutory period of 90 days. It is by now settled by the judgment of this court in **Kailash v. Nanhku (2005 (2) KLT 623)** that the court has power to receive the written statement filed beyond the statutory period.. But I notice that the explanation offered by the petitioner for not filing the written statement within the period of 90 days is not fully convincing. However, following the principles laid down by the Supreme Court in Kailash' case (supra), I direct the learned Subordinate Judge to receive the written statement filed by the petitioner on file on condition that the petitioner pays Rs.1000/-(Rs.One Thousand) to the plaintiffs either directly or through their counsel within three weeks from today. Once

the learned Subordinate Judge notices evidence regarding such payment, written statement will be received on file, issues will be formulated on the basis of the contentions raised therein and suit will be tried and disposed of accordingly. If cost is not paid the writ petition will stand dismissed.

PIUS C. KURIAKOSE,
JUDGE.

Dpk

PIUS C.KURIAKOSE, J

WPC NO.16566 OF 2003

JUDGMENT

3RD AUGUST 2007